

HOUSE BILL No. 1698

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-2-5; IC 24-4.6-5.

Synopsis: Home loan protection. Transfers licensing and regulation of loan brokers to the department of financial institutions. Restricts certain lending acts and practices. Establishes the mortgage fraud unit under the attorney general. Increases mortgage recording and loan broker registration and renewal fees. Requires the housing finance authority to provide mortgage literacy training programs. Allocates increased revenue to the housing finance authority and the mortgage fraud unit.

Effective: Upon passage; July 1, 2003.

Crawford, Pond

January 21, 2003, read first time and referred to Committee on Financial Institutions.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1698

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 23-2-5-1.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 1.1. As used in this chapter, "director" refers to the**
4 **director of the department of financial institutions appointed under**
5 **IC 28-11-2-1.**
- 6 SECTION 2. IC 23-2-5-3, AS AMENDED BY P.L.115-2001,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2003]: Sec. 3. (a) As used in this chapter, "certificate of
9 registration" means a certificate issued by the ~~commissioner~~ **director**
10 authorizing an individual to engage in origination activities on behalf
11 of a licensee.
- 12 (b) As used in this chapter, "creditor" means a person:
13 (1) that loans funds of the person in connection with a loan; and
14 (2) to whom the loan is initially payable on the face of the note or
15 contract evidencing the loan.
- 16 (c) As used in this chapter, "license" means a license issued by the



C
o
p
y

~~commissioner~~ **director** authorizing a person to engage in the loan brokerage business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person. "Loan broker" does not include:

(1) any bank, savings bank, trust company, savings association, credit union, or any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(2) any person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development;

(3) any insurance company; ~~or~~

(4) any person arranging financing for the sale of the person's product; ~~or~~

(5) any community development corporation (as defined in IC 4-4-28-2).

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means establishing the terms or conditions of a loan with a borrower or prospective borrower.

(h) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(i) As used in this chapter, "registrant" means an individual who is registered to engage in origination activities under this chapter.

C
o
p
y



(j) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls any ownership interest in a person, regardless of whether the person owns or controls the ownership interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

SECTION 3. IC 23-2-5-4, AS AMENDED BY P.L.230-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Any person desiring to engage or continue in the loan brokerage business shall apply to the ~~commissioner~~ **director** for a license under this chapter.

(b) An individual employed by a licensee to engage in origination activities shall be registered, by the licensee, with the ~~commissioner~~ **director** under section 5(a)(6) and section 5(c) of this chapter.

SECTION 4. IC 23-2-5-5, AS AMENDED BY P.L.115-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An application for license or renewal of a license must contain:

- (1) consent to service of process under subsection (e);
- (2) evidence of the bond required in subsection (b);
- (3) an application fee of two hundred ~~ten~~ dollars (~~\$200~~); (**\$210**);
- (4) an affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment, unless waived by the ~~commissioner~~ **director** under subsection (f);
- (5) evidence that the applicant, if the applicant is an individual, has completed the education requirements under section 21 of this chapter;
- (6) a registration form setting forth the name, home address, home telephone number, and Social Security number of each employee or prospective employee of the applicant who is or who will be engaged in origination activities; and
- (7) evidence that the license applicant's proposed registrants have completed the education requirements of section 21 of this chapter.

(b) A licensee must maintain a bond satisfactory to the ~~commissioner~~ **director** in the amount of fifty thousand dollars (\$50,000), which shall be in favor of the state and shall secure payment of damages to any person aggrieved by any violation of this chapter by the licensee.

(c) The ~~commissioner~~ **director** shall issue a license to an applicant

C
o
p
y



that meets the licensure requirements of this chapter. Whenever the registration provisions of this chapter have been complied with, the ~~commissioner~~ **director** shall issue a certificate of registration authorizing the registrant to engage in origination activities.

(d) Licenses issued by the **securities** commissioner **under IC 23-2-5** before ~~January 1, 2001~~, **July 1, 2003**, shall be valid, and renewal of such licenses shall not be required until ~~January 1, 2001~~, **July 1, 2003**. Individuals engaging in origination activities for a licensee before ~~January 1, 2001~~, **July 1, 2003**, shall not be required to apply for and receive a certificate of registration until ~~January 1, 2001~~, **July 1, 2003**. Except as otherwise provided in this subsection, licenses and certificates of registration issued by the **securities** commissioner are valid until January 1 of the second year after issuance. The education requirements of section 21 of this chapter shall first apply to applicants for issuance or renewal of licenses or registrations effective as of ~~January 1, 2001~~, **July 1, 2003**.

(e) Every applicant for licensure or for renewal of a license shall file with the ~~commissioner~~, **director**, in such form as the ~~commissioner~~ **director** by rule or order prescribes, an irrevocable consent appointing the ~~secretary of state~~ **director** to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant arising from the violation of any provision of this chapter. Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(f) Upon good cause shown, the ~~commissioner~~ **director** may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

(g) Whenever an initial or renewal application for license is denied or withdrawn, the ~~commissioner~~ **director** shall retain the initial or renewal application fee paid.

SECTION 5. IC 23-2-5-6, AS AMENDED BY P.L.115-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A licensee may not continue engaging in the loan brokerage business unless the licensee's license is renewed biennially. A registrant may not continue engaging in origination activities unless the registrant's certificate of registration is renewed biennially. A licensee shall renew its license and the certificates of registration of its registrant employees by filing with the ~~commissioner~~, **director**, at least thirty (30) days before the expiration of the registration, an application containing any information the ~~commissioner~~ **director** may require to indicate any material change from the information contained in the applicant's original application

C
o
p
y



or any previous application.

SECTION 6. IC 23-2-5-7, AS AMENDED BY P.L.115-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The loan broker regulation account is created in the state general fund. The money in the loan broker regulation account may be used only for the regulation of loan brokers under this chapter. The loan broker regulation account shall be administered by the treasurer of state. The money in the loan broker regulation account does not revert to any other account within the state general fund at the end of a state fiscal year.

(b) Except as provided in subsection (c), all fees and funds accruing from the administration of this chapter shall be accounted for by the **commissioner director** and shall be deposited with the treasurer of state who shall deposit them in the loan broker regulation account in the state general fund.

(c) All expenses incurred in the administration of this chapter shall be paid from appropriations made from the state general fund. However, costs of investigations and civil penalties recovered under this chapter shall be deposited in the **securities division enforcement account financial institutions fund** created under ~~IC 23-2-1-15~~ **IC 28-11-2-9**. The funds in the **securities division enforcement account financial institutions fund** shall be available, with the approval of the state budget agency, to augment and supplement the funds appropriated for the administration of this chapter.

SECTION 7. IC 23-2-5-10, AS AMENDED BY P.L.14-2000, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The **commissioner director** may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee or the registrant:

- (1) fails to maintain the bond required under section 5 of this chapter;
- (2) is insolvent;
- (3) has violated any provision of this chapter;
- (4) has knowingly filed with the **commissioner director** any document or statement containing any false representation of a material fact or omitting to state a material fact or if a representation becomes false after the filing but during the term of a license or certificate of registration as provided in subsection (e); or
- (5) has been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit.

C
o
p
y



(b) The ~~commissioner~~ **director** may not enter a final order denying, suspending, or revoking the license of a licensee or the registration of a registrant without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the ~~commissioner~~ **director** may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section. Upon the entry of a summary order, the ~~commissioner~~ **director** shall promptly notify all interested parties that it has been entered, of the reasons for the summary order, and that upon receipt by the ~~commissioner~~ **director** of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the ~~commissioner~~, **director**, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the ~~commissioner~~, **director**, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

(c) IC 4-21.5 does not apply to a proceeding under this section.

(d) If:

(1) a licensee desires to have a previously unregistered employee begin engaging in origination activities; or

(2) an individual who was previously registered under this chapter is employed by another licensee who desires to have the registrant engage in origination activities;

the employer licensee shall, within fifteen (15) days after the employee first conducts origination activities, submit to the ~~commissioner~~, **director**, on a form prescribed by the ~~commissioner~~, **director**, notice of the registrant's employment. If the employee has not previously been registered, the licensee shall submit evidence that the employee has completed the education requirements of section 21 of this chapter.

(e) If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the ~~commissioner~~ **director** of the change. The ~~commissioner~~ **director** may revoke or refuse to renew the license or registration of any person who:

(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure or registration under this chapter as a result of a change in material fact or statement.

C
O
P
Y



SECTION 8. IC 23-2-5-11, AS AMENDED BY P.L.230-1999,
SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 11. (a) The ~~commissioner~~ **director** may do the
following:

- (1) Adopt rules under IC 4-22-2 to implement this chapter.
- (2) Make investigations and examinations:
 - (A) in connection with any application for licensure or for registration of a licensee or registrant or with any license or certificate of registration already granted; or
 - (B) whenever it appears to the ~~commissioner~~ **director**, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.
- (3) Charge as costs of investigation or examination all reasonable expenses, including a per diem prorated upon the salary of the ~~commissioner~~ **director** or employee and actual traveling and hotel expenses. All reasonable expenses are to be paid by the party or parties under investigation or examination if the party has violated this chapter.
- (4) Issue notices and orders, including cease and desist notices and orders, after making an investigation or examination under subdivision (2). The ~~commissioner~~ **director** may also bring an action on behalf of the state to enjoin a person from violating this chapter. The ~~commissioner~~ **director** shall notify the person that an order or notice has been issued, the reasons for it, and that a hearing will be set within fifteen (15) days after the ~~commissioner~~ **director** receives a written request from the person requesting a hearing.
- (5) Sign all orders, official certifications, documents, or papers issued under this chapter or delegate the authority to sign any of those items to a deputy.
- (6) Hold and conduct hearings.
- (7) Hear evidence.
- (8) Conduct inquiries with or without hearings.
- (9) Receive reports of investigators or other officers or employees of the state of Indiana or of any municipal corporation or governmental subdivision within the state.
- (10) Administer oaths, or cause them to be administered.
- (11) Subpoena witnesses, and compel them to attend and testify.
- (12) Compel the production of books, records, and other documents.

C
o
p
y



(13) Order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.

(14) Order that each witness appearing under the commissioner's order to testify before the ~~commissioner~~ **director** shall receive the fees and mileage allowances provided for witnesses in civil cases.

(b) If a witness, in any hearing, inquiry, or investigation conducted under this chapter, refuses to answer any question or produce any item, the ~~commissioner~~ **director** may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the ~~commissioner~~ **director** may make a written request that the court grant use immunity to the witness. Upon written request of the commissioner, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

(1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and

(2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after he has been granted use immunity, the court may find him in contempt.

(c) In any prosecution, action, suit, or proceeding based upon or arising out of this chapter, the ~~commissioner~~ **director** may sign a certificate showing compliance or noncompliance with this chapter by any person. This shall constitute prima facie evidence of compliance or noncompliance with this chapter and shall be admissible in evidence in any action at law or in equity to enforce this chapter.

SECTION 9. IC 23-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Copies of any statement or document filed with the ~~commissioner~~, **director**, and copies of any records of the ~~commissioner~~, **director**, certified to by the ~~commissioner~~ **director** or any deputy are admissible in any

C
O
P
Y



1 prosecution, action, suit, or proceeding based upon, or arising out of or
 2 under, the provisions of this chapter to the same effect as the original
 3 of the statement, document, or record would be if actually produced.

4 SECTION 10. IC 23-2-5-14, AS AMENDED BY P.L.230-1999,
 5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]: Sec. 14. (a) If the ~~commissioner~~ **director** determines,
 7 after a hearing, that a person has violated this chapter, the
 8 ~~commissioner~~ **director** may, in addition to all other remedies, impose
 9 a civil penalty upon the person in an amount not to exceed ten thousand
 10 dollars (\$10,000) for each violation.

11 (b) The ~~commissioner~~ **director** may bring an action in the circuit or
 12 superior court of Marion County to enforce payment of any penalty
 13 imposed under this section.

14 SECTION 11. IC 23-2-5-18, AS AMENDED BY P.L.230-1999,
 15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 18. (a) Each loan broker agreement shall be given
 17 an account number. Each licensee shall keep and maintain the
 18 following records or their electronic equivalent:

19 (1) A file for each borrower or proposed borrower that contains
 20 the following:

21 (A) The name and address of the borrower or any proposed
 22 borrower.

23 (B) A copy of the signed loan broker agreement.

24 (C) A copy of any other papers or instruments used in
 25 connection with the loan broker agreement and signed by the
 26 borrower or any proposed borrower.

27 (D) If a loan was obtained for the borrower, the name and
 28 address of the creditor.

29 (E) If a loan is accepted by the borrower, a copy of the loan
 30 agreement.

31 (F) The amount of the loan broker's fee that the borrower has
 32 paid. If there is an unpaid balance, the status of any collection
 33 efforts.

34 (2) All receipts from or for the account of borrowers or any
 35 proposed borrowers and all disbursements to or for the account of
 36 borrowers or any proposed borrowers, recorded so that the
 37 transactions are readily identifiable.

38 (3) A general ledger that shall be posted at least monthly, and a
 39 trial balance sheet and profit and loss statement prepared within
 40 thirty (30) days of the ~~commissioner's~~ **director's** request for the
 41 information.

42 (4) A sample of:

C
o
p
y



(A) all advertisements, pamphlets, circulars, letters, articles, or communications published in any newspaper, magazine, or periodical;

(B) scripts of any recording, radio, or television announcement; and

(C) any sales kits or literature;

to be used in solicitation of borrowers.

(b) The records listed in subsection (a) shall be kept for a period of two (2) years in the licensee's principal office and must be separate or readily identifiable from the records of any other business that is conducted in the office of the loan broker.

SECTION 12. IC 23-2-5-19, AS AMENDED BY P.L.230-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, 10, 17, and 18 of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) Any community development corporation (as defined in IC 4-4-28-2).

(7) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations,

C
o
p
y



an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

SECTION 13. IC 23-2-5-21, AS ADDED BY P.L.230-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Except as provided under section 5(d) of this chapter, a person applying for a license or certificate of registration must provide to the ~~commissioner~~ **director** evidence that during the twenty-four (24) month period immediately preceding the application that the person completed at least twenty-four (24) hours of academic instruction, acceptable to the ~~commissioner~~, **director**, related to the loan brokerage business. A person renewing a license or certificate of registration must provide to the ~~commissioner~~ **director** evidence that during the twenty-four (24) month period immediately preceding the application that the person completed at least twelve (12) hours of academic instruction, acceptable to the ~~commissioner~~, **director**, related to the loan brokerage business.

(b) In determining the acceptability of academic instruction the ~~commissioner~~ **director** shall give consideration to approval of a licensee's internal academic instruction programs completed by employees.

SECTION 14. IC 24-4.6-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5. Home Loan Protection Act

Sec. 1. As used in this chapter, "benchmark rate" means the interest rate a borrower may reduce by paying bona fide discount points. The rate may not exceed the weekly average yield of United States Treasury securities having a maturity of five (5) years, as determined on the fifteenth day of the month immediately before the month in which the loan is made, plus four (4) percentage points.

Sec. 2. As used in this chapter, "bona fide discount points" means loan discount points that are:

(1) knowingly paid by the borrower;



C
o
p
y

(2) paid for the express purpose of lowering the benchmark rate;

(3) in fact reducing the interest rate or time-price differential applicable to the loan from an interest rate that does not exceed the benchmark rate; and

(4) recouped within the first four (4) years of the scheduled loan payments, if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest over the first four (4) years is equal to or greater than the dollar amount of loan discount points paid by the borrower.

Sec. 3. As used in this chapter, "borrower" means a person obligated to repay a home loan, including a coborrower, cosigner, or guarantor.

Sec. 4. (a) As used in this chapter, "creditor" means:

(1) a person who extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments, and to whom the obligation is payable at any time;

(2) a home loan broker, including any person who:

(A) directly or indirectly:

- (i) solicits;
- (ii) processes;
- (iii) places; or
- (iv) negotiates;

home loans for others; or

(B) closes home loans that:

- (i) may be in the home loan broker's own name with funds provided by others; and
- (ii) are afterwards assigned to the provider of the funding of the loan.

(b) The term does not include an attorney providing legal services in association with the closing of a home loan.

Sec. 5. As used in this chapter, "department" means the department of financial institutions.

Sec. 6. As used in this chapter, "flipping" refers to making a home loan that refinances an existing home loan when the new loan does not have reasonable, tangible net benefit to the borrower considering all the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances.

C
O
P
Y



1 **Sec. 7.** As used in this chapter, "high cost home loan" means a
 2 home loan in which the terms of the loan meet or exceed one (1) or
 3 more of the thresholds described in section 12 of this chapter.

4 **Sec. 8.** As used in this chapter, "home loan" means a loan, other
 5 than a reverse mortgage transaction, but including an open end
 6 credit plan, where the loan is secured by a:

7 (1) mortgage or deed of trust on real estate in Indiana upon
 8 which there is located or there is to be located a structure or
 9 structures designed primarily for occupancy of one (1) to four
 10 (4) families and that is or will be occupied by a borrower as
 11 the borrower's principal dwelling; or

12 (2) security interest on a manufactured home that is or will be
 13 occupied by a borrower as the borrower's principal dwelling.

14 **Sec. 9. (a)** As used in this chapter, "manufactured home" means
 15 a structure transportable in one (1) or more sections:

16 (1) that:

17 (A) is greater than or equal to eight (8) body feet in width;
 18 or

19 (B) is greater than or equal to forty (40) body feet in
 20 length;

21 (2) built on a permanent chassis; and

22 (3) designed to be used as a dwelling:

23 (A) with a permanent foundation when erected on land
 24 secured in conjunction with the real property where the
 25 manufactured home is located;

26 (B) connected to the required utilities; and

27 (C) containing the required plumbing, heating, air
 28 conditioning, and electrical systems.

29 (b) The term includes any structure:

30 (1) that meets all requirements of subsection (a) except
 31 subsection (a)(1)(A) or (a)(1)(B); and

32 (2) with respect to which the manufacturer:

33 (A) voluntarily files a certification required by the United
 34 States Department of Housing and Urban Development;
 35 and

36 (B) complies with the standards established under the
 37 National Manufactured Housing Construction and Safety
 38 Standards Act (42 U.S.C. 5401 et seq.).

39 (c) The term does not include:

40 (1) rental property;

41 (2) second homes; or

42 (3) manufactured homes when not secured in conjunction

C
O
P
Y



with the real property on which the manufactured home is located.

Sec. 10. As used in this chapter, "points and fees" means any of the following:

(1) An amount payable under a point, discount, or other system or additional charges.

(2) A service or carrying charge.

(3) A loan fee, finder's fee, or similar charge.

(4) A fee for an investigation report.

(5) Items exempted from computation of points and fees in extensions of credit secured by an interest in real property. However, the following items, when charged in connection with any extension of credit secured by an interest in real property, may not be included in the computation of the finance charge with respect to that transaction, provided that the creditor does not receive direct or indirect compensation in connection with the charge and the charge is not paid to an affiliate of the creditor:

(A) Fees or premiums for title examination, title insurance, or similar purposes.

(B) Fees for preparation of loan related documents.

(C) Escrows for future payments of taxes and insurance.

(D) Fees for notarizing deeds and other documents.

(E) Appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted before closing.

(F) Credit reports.

(6) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction.

(7) The cost of all premiums financed by the creditor, directly or indirectly, for:

(A) credit life;

(B) credit disability;

(C) credit unemployment;

(D) credit property insurance;

(E) other life or health insurance; or

(F) any payments financed by the creditor directly or indirectly for any debt cancellation or suspension agreement or contract. However, insurance premiums calculated and paid on a monthly basis are not considered financed by the creditor.



(8) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents.

(9) A prepayment fee or penalty that is charged the borrower if the loan refinances a previous loan made by the same creditor or an affiliate of the creditor.

(10) For an open end loan, the points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties that may be charged or collected under the terms of the loan documents, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.

Sec. 11. As used in this chapter, "rate" means the interest rate charged on the home loan, based on an annual simple interest yield.

Sec. 12. As used in this chapter, "threshold" means any of the following:

(1) Rate threshold, which means:

(A) for a first lien mortgage loan, that the trigger rate equals or exceeds six (6) percentage points over the weekly average yield on five (5) year United States Treasury securities; and

(B) for a subordinate mortgage lien or a mortgage secured solely by a security interest in a manufactured home, that the trigger rate equals or exceeds eight (8) percentage points over the weekly average yield on five (5) year United States Treasury securities.

(2) Total points and fees threshold, which means the total points and fees on the loan, paid by the borrower at or before closing, that exceed:

(A) for a loan in which the total amount of the loan is at least thirty thousand dollars (\$30,000), three percent (3%) of the total loan amount, excluding up to two (2) bona fide discount points; or

(B) for a loan in which the total amount of the loan is less than thirty thousand dollars (\$30,000), the lesser of nine hundred dollars (\$900) or six percent (6%) excluding up to two (2) bona fide discount points.

(3) Prepayment penalty threshold, which means the home loan agreement permits the lender to charge or collect prepayment penalties more than thirty (30) months after the loan closing or that exceed, in total, more than two percent (2%) of the amount prepaid.

C
o
p
y



Sec. 13. As used in this chapter, "total loan amount" means:

- (1) the principal of the loan minus the points and fees that are included in the principal amount of the loan; or
- (2) the total line of credit allowed under the home loan for an open end loan.

Sec. 14. As used in this chapter, "trigger rate" means:

- (1) for fixed rate loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;
- (2) for loans in which the interest varies according to an index, the sum of the index rate as of the date of loan closing plus the maximum margin permitted at any time under the loan agreement; or
- (3) for all other loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the loan.

Sec. 15. A creditor making a home loan may not finance, directly or indirectly, any:

- (1) credit life insurance;
- (2) credit disability insurance;
- (3) credit unemployment insurance;
- (4) credit property insurance;
- (5) other life or health insurance; or
- (6) payments directly or indirectly for any cancellation suspension agreement or contract.

However, insurance premiums, debt cancellation fees, or suspension fees calculated and paid on a monthly basis may not be considered financed by the creditor for purposes of this chapter.

Sec. 16. A creditor may not engage in flipping. A home loan refinancing is presumed to be flipping if:

- (1) the primary tangible benefit to the borrower is an interest rate lower than the interest rate on debts satisfied or refinanced in connection with the home loan, and it will take more than four (4) years for the borrower to recoup the costs of the points and fees and other closing costs through savings resulting from the lower interest rate; or
- (2) the new loan refinances an existing home loan that:
 - (A) is a special mortgage originated, subsidized, or guaranteed by or through a state or local government or nonprofit organization; and
 - (B) either bore a below market interest rate at the time the loan was originated or has nonstandard payment terms beneficial to the borrower, including payments that vary



C
o
p
y

with income or are limited to a percentage of income, or terms under which no payments are required under specified conditions;

where, as a result of the refinancing, the borrower will lose one (1) or more of the benefits of the special mortgage.

Sec. 17. A creditor may not recommend or encourage default on an existing loan or other debt before and in connection with the closing or planned closing of a home loan that refinances all or any part of the existing loan or debt.

Sec. 18. A creditor may not charge a late payment fee except according to the following rules:

(1) The late payment fee may not be in excess of four percent (4%) of the amount of the payment past due.

(2) The late payment fee may be assessed only for a payment past due for fifteen (15) days or more.

(3) The late payment fee may not be charged more than one (1) time with respect to a single late payment. If a late payment charge is deducted from a payment made on the loan and the deduction causes a subsequent default on a subsequent payment, a late payment charge may not be imposed for the default. If a late payment charge has been imposed one (1) time with respect to a particular late payment, a late payment fee may not be imposed with respect to any future payment that would have been timely and sufficient, but for the previous default.

(4) A late payment fee may not be charged unless the creditor notifies the borrower within forty-five (45) days following the date the payment was due that a late payment charge has been imposed for a particular late payment. A late payment charge may not be collected from any borrower if the borrower informs the creditor that nonpayment of an installment is in dispute and presents proof of payment within forty-five (45) days after receipt of the creditor's notice of the late charge.

(5) A creditor shall treat each payment as posted on the same date as it was received by the creditor, servicer, or creditor's agent, or at the address provided to the borrower by the creditor, servicer, or the creditor's agent for making payments.

Sec. 19. A home loan may not contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This subsection does not prohibit acceleration of the loan in good

C
o
p
y



1 faith due to the borrower's failure to abide by the material terms
2 of the loan.

3 **Sec. 20. A creditor may not charge a fee for informing or**
4 **transmitting to a person the balance due to pay off a home loan or**
5 **to provide a release upon prepayment. A creditor must provide a**
6 **payoff balance not later than seven (7) business days after the**
7 **request is received by the creditor.**

8 **Sec. 21. (a) The following additional limitations and prohibited**
9 **practices apply to a high cost home loan:**

10 (1) **A creditor making a high cost home loan may not directly**
11 **or indirectly finance any points or fees.**

12 (2) **Prepayment fees or penalties may not be included in the**
13 **loan documents for a high cost home loan or charged to the**
14 **borrower if the fees or penalties exceed in total:**

15 (A) **in the first twelve (12) months after the loan closing,**
16 **more than two percent (2%) of the loan amount prepaid;**
17 **or**

18 (B) **in the second twelve (12) months after the loan closing,**
19 **more than one percent (1%) of the amount prepaid.**

20 (3) **A prepayment penalty may not be contracted for after the**
21 **second year following the loan closing.**

22 (4) **A creditor may not include a prepayment penalty fee in a**
23 **high cost home loan unless the creditor offers the borrower**
24 **the option of choosing a loan product without a prepayment**
25 **fee. A lender is considered to have complied with this clause**
26 **if the borrower receives and executes the following disclosure:**

27 **"LOAN PRODUCT CHOICE**

28 **I was provided with an offer to accept a product both with**
29 **and without a prepayment penalty provision. I have chosen**
30 **to accept the product with a prepayment penalty."**

31 **This notice may be incorporated with any other language.**

32 (b) **A high cost home loan may not contain a scheduled payment**
33 **that is more than twice as large as the average of earlier scheduled**
34 **payments, unless the payment schedule is adjusted to the seasonal**
35 **or irregular income of the borrower.**

36 (c) **A high cost home loan may not include payment terms under**
37 **which the outstanding principal balance will increase at any time**
38 **over the course of the loan because the regular periodic payments**
39 **do not cover the full amount of interest due.**

40 (d) **A high cost home loan may not contain a provision that**
41 **increases the interest rate after default. However, this subsection**
42 **does not apply to interest rate changes in a variable rate loan**

C
o
p
y



otherwise consistent with the provisions of the loan documents if the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(e) A high cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(f) Without regard to whether a borrower is acting individually or on behalf of others similarly situated, any provision of a home loan agreement that:

(1) allows a party to require a borrower to assert any claim or defense in a forum that is:

(A) less convenient;

(B) more costly; or

(C) more dilatory;

for the resolution of the dispute than a judicial forum established in this state where the borrower may otherwise bring a claim or defense; or

(2) limits in any way any claim or defense the borrower may have;

is unconscionable and void.

(g) A creditor may not make a high cost home loan without first receiving certification from a third party nonprofit counselor approved by the United States Department of Housing and Urban Development or the Indiana housing finance authority established by IC 5-20-1-3 that the borrower has received counseling on the advisability of the loan transaction.

(h) A creditor may not make a high cost home loan without regard to repayment ability. If a creditor presents evidence that the creditor followed commercially reasonable practices in determining the debt to income ratio, there is a rebuttable presumption that the creditor made the loan with due regard to repayment ability.

(i) A creditor may not pay a contractor under a home improvement contract from the proceeds of a high cost home loan unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third party escrow agent under a written

C
O
P
Y



1 agreement signed by the borrower, the creditor, and the
2 contractor before the disbursement.

3 (j) A creditor may not charge a borrower any fees or other
4 charges to modify, renew, extend, or amend a high cost home loan
5 or to defer any payment due under the terms of a high cost home
6 loan.

7 (k) A creditor making a high cost home loan that has the right
8 to foreclose must use the judicial foreclosure procedures of the
9 state where the property securing the loan is located. The borrower
10 has the right to assert in the proceeding the nonexistence of a
11 default and any other claim or defense to acceleration and
12 foreclosure, including any claim or defense based on any violations
13 of this chapter, though no claim or defense is considered a
14 compulsory counterclaim.

15 (l) A creditor may not engage in a practice or have a policy that
16 encourages making a high cost home loan on the basis of race,
17 ethnicity, gender, or age.

18 Sec. 22. (a) If a creditor asserts that grounds for acceleration
19 exist and requires the payment in full of all sums secured by the
20 security instrument, the borrower or anyone authorized to act on
21 the borrower's behalf at any time before the title is transferred by
22 means of foreclosure, by judicial proceeding and sale, or otherwise,
23 may cure the default and reinstate the home loan by tendering the
24 amount or performance as specified in the security instrument. If
25 the borrower cures the default, the borrower must be reinstated to
26 the same position as if the default had not occurred, and any
27 acceleration of any obligation under the security instrument or
28 note arising from the default is nullified as of the date of the cure.

29 Sec. 23. (a) Before an action is filed to foreclose upon the home
30 or before other action is taken to seize or transfer ownership of the
31 home, a notice of the right to cure the default in a home loan must
32 be delivered to the borrower, informing the borrower of the
33 following:

34 (1) The nature of default claimed on the home loan and the
35 borrower's right to cure the default by paying the sum of
36 money required to cure the default. However, a creditor or
37 servicer may not refuse to accept any partial payment made
38 or tendered in response to the notice. If the amount necessary
39 to cure the default will change during the thirty (30) day
40 period after the effective date of the notice due to the
41 application of a daily interest rate or the addition of late fees
42 as allowed by this chapter, the notice must give sufficient

C
o
p
y



information to enable the borrower to calculate the amount at any point during the thirty (30) day period.

(2) The date by which the borrower must cure the default to avoid acceleration and initiation of foreclosure or other action to seize the home. The date may not be less than thirty (30) days after the date the notice is effective. The name, address, and telephone number of a person to whom the payment or tender must be made must also be disclosed.

(3) That if the borrower does not cure the default by the date specified, the creditor may take steps to terminate the borrower's ownership in the property by requiring payment in full of the home loan and commencing a foreclosure proceeding or other action to seize the home.

(4) The name and address of the creditor and the telephone number of a representative of the creditor whom the borrower may contact if the borrower disagrees with:

(A) the creditor's assertion that a default has occurred; or

(B) the correctness of the creditor's calculation of the amount required to cure the default.

(b) To cure a default under this section, a borrower may not be required to pay a charge, fee, or penalty attributable to the exercise of the right to cure a default, as provided for in this section, other than the fees specifically allowed by this section. The borrower is not liable for:

(1) attorney's fees relating to the borrower's default that are incurred by the lender before or during the thirty (30) day period described in subsection (a)(2); or

(2) a fee exceeding one hundred dollars (\$100) that is incurred by the lender after the expiration of the thirty (30) day period but before the lender files a foreclosure action or takes other action to seize or transfer ownership of the home.

After the lender files a foreclosure action or takes other action to seize or transfer ownership of the home, the borrower is liable only for attorney's fees that are reasonable and actually incurred by the lender, based on a reasonable hourly rate and a reasonable number of hours.

(c) If a default is cured before the initiation of an action to foreclose or to seize the residence, the creditor may not institute the foreclosure proceeding or other action for that default. If a default is cured after the initiation of any action to foreclose, the creditor shall take the steps necessary to terminate the foreclosure proceeding or other action. A creditor making a home loan who

C
o
p
y



has the legal right to foreclose must use the judicial foreclosure procedures of the state where the property securing the loan is located. The borrower may assert in a judicial foreclosure proceeding or other action the nonexistence of a default and any other claim or defense to acceleration and foreclosure, including a claim or defense based on violations of this chapter. However, a claim or defense may not be considered a compulsory counterclaim.

Sec. 24. (a) Notwithstanding any other law, but limited to the amount required to:

(1) cover costs, including reasonable attorney's fees; or
 (2) extinguish the borrower's liability under a home loan;
 a borrower may assert defenses, claims, or counterclaims in actions in connection with a home loan.

(b) A borrower acting in an individual capacity may assert any defense, claim, or counterclaim against:

(1) a creditor;
 (2) an assignee of a home loan; or
 (3) any subsequent holder of a home loan;
 in connection with the loan as an original action.

(c) A borrower acting in an individual capacity may assert any defense, claim, or counterclaim:

(1) after an action:
 (A) to collect on a home loan;
 (B) to foreclose on the collateral securing a home loan is initiated;
 (C) on the debt arising from a home loan that is accelerated; or
 (D) when a home loan is sixty (60) days in default; and
 (2) against:
 (A) a creditor;
 (B) an assignee of a home loan; or
 (C) any subsequent holder of a home loan;

at any time during the term of the loan.

(d) Notwithstanding any other law, the remedies provided in this chapter apply to:

(1) the creditor;
 (2) a director, an officer, an employee, or a controlling stockholder of or agent for a creditor who personally participated in the making or approving of a high cost home loan; and
 (3) any other person to whom this chapter applies and who

C
o
p
y



violates the requirements of this chapter.

A person who purchases or is otherwise assigned a high cost home loan is subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against the original creditor or broker of the loan.

(e) Notwithstanding any other law, a borrower who is in default for more than sixty (60) days or who is in foreclosure may assert a violation of this chapter against any creditor, holder, or assignee of the home loan by way of offset:

(1) as an original action;

(2) as a defense or counterclaim to an action to collect amounts owed; or

(3) to obtain possession of the home secured by the home loan.

(f) It is a violation of this chapter for a person to attempt to avoid the application of this chapter by:

(1) dividing a loan transaction into separate parts; or

(2) engaging in other subterfuge.

Sec. 25. (a) A person who knowingly or intentionally violates this article commits:

(1) a Class A misdemeanor; and

(2) a deceptive act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

(b) A person who violates this chapter is liable to the borrower for the following:

(1) Actual damages, including consequential and incidental damages. The borrower is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to the finance charges agreed to in the home loan agreement, plus ten percent (10%) of the amount financed.

(3) Punitive damages, if the violation was malicious or reckless.

(4) Costs and reasonable attorney's fees.

(c) A borrower may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(d) The knowing or intentional violation of this chapter or a rule adopted under the authority of this chapter renders the home loan agreement void, and the creditor has no right to collect, receive, or retain any principal, interest, or other charges with respect to the loan. The borrower may recover any payments made under the

C
o
p
y



1 agreement.

2 (e) The remedies provided in this section are cumulative but are
3 not intended to be the exclusive remedies available to a consumer.
4 A consumer is not required to exhaust any administrative remedies
5 under this chapter or under any other applicable law.

6 (f) A creditor in a home loan who in good faith fails to comply
7 with this chapter may not be considered to have violated this
8 chapter if the creditor establishes:

9 (1) that not later than thirty (30) days after the date of the
10 loan closing and before receiving any notice from the
11 borrower of the compliance failure, the creditor has made
12 appropriate restitution to the borrower and appropriate
13 adjustments are made to the loan; or

14 (2) that:

15 (A) not later than sixty (60) days after the date of the loan
16 closing and before receiving any notice from the borrower
17 of the compliance failure, the borrower is notified of the
18 compliance failure, appropriate restitution is made to the
19 borrower, and appropriate adjustments are made to the
20 loan; and

21 (B) the compliance failure was not intentional and resulted
22 from a bona fide error, notwithstanding the maintenance
23 of procedures reasonably adopted to avoid the errors.

24 For purposes of this subsection, bona fide errors include clerical
25 errors, calculation errors, computer malfunction and
26 programming errors, and printing errors. An error of legal
27 judgment with respect to a person's obligations under this chapter
28 is not a bona fide error for purposes of this subsection.

29 (g) The brokering of a home loan:

30 (1) by a home loan broker as described in section 4(a)(2) of
31 this chapter; and

32 (2) that violates any provision of this act;

33 shall constitute a violation of that provision and of this chapter.

34 Sec. 26. The rights conferred by this chapter are in addition to
35 rights granted under any other law.

36 Sec. 27. (a) The attorney general may enforce this article for any
37 violation occurring within ten (10) years of the occurrence of the
38 violations.

39 (b) As used in this chapter, "unit" refers to the mortgage fraud
40 unit established by this section.

41 (c) The mortgage fraud unit is established in the office of the
42 attorney general.

C
O
P
Y



(d) The attorney general shall hire qualified individuals to implement the responsibilities of the unit, subject to the budget agency's approval.

(e) The unit shall do the following:

(1) Investigate allegations of fraud in connection with mortgage lending.

(2) Institute appropriate administrative and civil actions to redress fraud in connection with mortgage lending.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of fraud in connection with mortgage lending.

(4) Cooperate with appropriate federal and state agencies in the prosecution of criminal violations involving fraud in connection with mortgage lending.

(f) The unit shall cooperate with the following to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate licensing boards with respect to persons licensed under IC 25.

(2) The department of financial institutions.

(3) The department of insurance with respect to the sale of insurance in connection with mortgage lending.

(4) The securities division of the office of the secretary of state.

(5) The supreme court disciplinary commission with respect to attorney misconduct.

Sec. 28. The attorney general may file complaints with any of the agencies listed in section 27(f) of this chapter to implement this chapter.

Sec. 29. The establishment of the unit and its powers do not limit the jurisdiction of any agency described in section 27(f) of this chapter.

Sec. 30. (a) The attorney general and an investigator of the unit may do any of the following when investigating alleged fraud in connection with mortgage lending:

(1) Issue and serve a subpoena for the production of records, including records stored in electronic data processing systems, for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of any person before the department to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena

C
O
P
Y



described in subdivision (1) or (2).

(b) The attorney general shall make recommendations to the general assembly for appropriate legislation to address fraud in connection with mortgage lending.

(c) The unit shall maintain an education program to inform consumers of mortgage loans of fraud in connection with mortgage lending. The unit shall cooperate with the agencies listed in section 27(f) of this chapter to develop and implement the education program required by this subsection.

Sec. 31. The fees assessed by the county recorder to record a mortgage is increased by three dollars (\$3) per mortgage filing. The county recorder shall retain fifty cents (\$0.50) of the fee increase. Two dollars (\$2) from the fee increase is credited to the Indiana housing finance authority established by IC 5-20-1-3 to identify, promote, and fund mortgage literacy training and programs throughout the state. Fifty cents (\$0.50) from the fee increase is credited to the unit.

Sec. 32. The fee assessed under IC 23-2-5 by the department of financial institutions for the registration of loan brokers and originators is increased by ten dollars (\$10) for renewal of a registration and by ten dollars (\$10) for an initial registration. Eight dollars (\$8) of the fee increase is credited to the Indiana housing finance authority established by IC 5-20-1-3 to identify, promote, and fund mortgage literacy training programs throughout the state. Two dollars (\$2) from the fee increase is credited to the unit.

SECTION 15. IC 23-2-5-1 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 16. [EFFECTIVE UPON PASSAGE] The rules adopted by the securities commissioner appointed under IC 23-2-1-15 before July 1, 2003, concerning the licensure and regulation of loan brokers are considered on July 1, 2003, rules of the department of financial institutions.

SECTION 17. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding any rules adopted by the securities commissioner appointed under IC 23-2-1-15, the department of financial institutions shall carry out the duties imposed on it by IC 23-2-5 and IC 24-4.6-5, as added by this act, under interim written guidelines approved by the director of the department of financial institutions.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 23-2-5 and



C
o
p
y

1 **IC 24-4.6-5, as added by this act.**

2 **(2) September 1, 2003.**

3 **SECTION 18. [EFFECTIVE JULY 1, 2003] On July 1, 2003, the**
4 **department of financial institutions becomes the owner of the loan**
5 **broker regulation account in the state general fund.**

6 **SECTION 19. [EFFECTIVE UPON PASSAGE] This act does not**
7 **affect:**

8 **(1) rights or liabilities accrued;**

9 **(2) penalties incurred;**

10 **(3) crimes committed; or**

11 **(4) proceedings begun;**

12 **before the effective date of this act. Those rights, liabilities,**
13 **penalties, crimes, and proceedings continue and shall be imposed**
14 **and enforced under prior law as if this act had not been enacted.**

15 **SECTION 20. [EFFECTIVE UPON PASSAGE] The provisions of**
16 **this act are severable in the manner provided by IC 1-1-1-8(b).**

17 **SECTION 21. An emergency is declared for this act.**

C
o
p
y

